Supreme Court, U.S.
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MICHAEL RODAK, JR., CLERK

IN THE SUPREME COURT OF THE UNITED STATES

December Term, 1976

No. 76-7991

NATIONAL LABOR RELATIONS BOARD,

Respondent

-vs-

ALBERTS, INC., and DETROIT SHOE COMPANY,

Petitioner

RETAIL AND DEPARTMENT STORE EMPLOYEES, AMALGAMATED CLOTHING WORKERS OF AMERICA, AFL-CIO,

Intervenor

/

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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UNITED STATES COURT OF APPEALS
For the District of Columbia Circuit

_____ [No Opinion]

NO. 75-1361 SEPTEMBER TERM, 1976

Retail and Department Store Employees, Amalgamated Clothing Workers of America, AFL-CIO, Petitioner

v.

National Labor Relations Board, Respondent

Albert's, Inc., Intervenor

NO. 75-1499

National Labor Relations Board, Petitioner

v.

Albert's, Inc. and Detroit Shoe Company, Respondents

Retail and Department Store Employees, Etc., Intervenor

Petition to Review and Cross-Application to Enforce an Order of the National Labor Relations Board.

Before: Bazelon, Chief Judge, and Wright and Robinson, Circuit Judges.

ORDER

These causes came on to be heard on a petition to review and a cross-application to enforce an order of the National Labor Relations Board and were argued by counsel. While the issues presented occasion no need for an opinion, they have been accorded full consideration by the court. See Local Rule 13(c).

There is substantial evidence in the record to support, and a rational basis for, the Board's order sought to be reviewed herein.

On consideration of the foregoing, it is Ordered by this court that the petition for review is hereby denied, and the cross-application to enforce is hereby granted.

Per Curiam

For the Court

/s/ George A. Fisher/by DMC
George A. Fisher
Clerk

213 NLRB No. 94 D-9122
Detroit, Michigan

UNITED STATES OF AMERICA
Before the National Labor Relations Board

Alberts, Inc.
and
Retail and Department Store Employees, Amalgamated Clothing Workers of America, AFL-CIO

Case 7-CA-10399

Alberts, Inc., and Detroit Shoe Company,
and
Retail and Department Store Employees, Amalgamated Clothing Workers of America, AFL-CIO

Cases 7-CA-10384
7-CA-10411
7-CA-10439
7-CA-10489
7-CA-10563
7-CA-10625

Decision and Order

On March 29, 1974, Administrative Law Judge Arnold Ordman issued the attached Decision in this proceeding. Thereafter, Respondents and the Charging Party filed exceptions and supporting briefs, and Respondents filed a brief in answer to the Charging Party's exceptions.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings,

findings,[1] and conclusions[2] of the Administrative Law Judge and to adopt his recommended Order, as modified herein.

We find, in agreement with the Administrative Law Judge, that the no-solicitation rule promulgated by Respondent Alberts in February 1973 was adopted for a discriminatory purpose. However, we disagree with his preliminary finding that the rule is presumptively valid on its face, inasmuch as, in our view, the rule fails to clearly and unambiguously convey to employees the valid restrictions on their organizing activities.

[1]The Respondents and Charging Party have excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an Administrative Law Judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. Standard Dry Wall Products, Inc., 91 NLRB 544 (1950), enfd. 188 F.2d 362 (C.A. 3, 1951). We have carefully examined the record and find no basis for reversing his findings.

[2]We agree with the Administrative Law Judge that the promise by agents of the Union that initiation fees would be waived if the Union became bargaining representative did not taint the results of the election conducted at the Universal Mall store on May 10, 1973. See Irwindale Division, Lau Industries, a Division of Phillips Industries, Inc., 210 NLRB No. 42 (1974)

The rule provides:

> During the time that the union is trying to organize the employees, the company will expect employees to render their usual good service to the company and union organizers will not be allowed to discuss the union during working hours on company property. Employees who desire to discuss the union between themselves may do so during non-working hours, making sure that their discussions do not interrupt their normal work.

As written, the rule contains inherent ambiguities. First, it fails to specify whether the term "union organizers" refers to employee organizers or only to nonemployees. A prohibition against union solicitation by employees "during working hours on company property" is clearly unlawful.[3] Accordingly, as the term "union organizers" could be construed to encompass employees who engage in union organizing activity, we find this portion of the rule to be ambiguous and, therefore, invalid.

The last sentence of the rule is also confusing. While rules which prohibit solicitation during "working hours", as this rule apparently does, are generally presumptively invalid,[4] an excep-

[3]Pepsi-Cola Bottling Co. of Los Angeles, 211 NLRB No. 132 (1974).

[4]Essex International, Inc., 211 NLRB No. 112 (1974). Members Fanning and Jenkins, while dissenting in Essex, agreed with the majority that the term "working hours" is ambiguous and that a rule utilizing that term is presumptively invalid.

tion to this policy is made in the case of retail establishments, which, because of the nature of their business, may prohibit solicitation, even during break and lunch periods, on the selling floor.[5] The instant ban on union solicitation, however, is not limited to the selling floor or to other public areas of the store and therefore, in our view, renders the rule invalid on its face.

Respondents except, inter alia, to the scope of the Administrative Law Judge's recommended posting provision. Although the Administrative Law Judge found that Respondents committed violations of Section 8(a)(1) and (3) of the Act at three stores, he recommended that Respondents be required to post a notice at each of their stores in the Greater Detroit metropolitan area. Under the circumstances, we believe the posting of the notice should be limited to those stores where unfair labor practices occurred. United Mercantile Incorporated; United Mercantile, Inc., No. 2; and United Mercantile, Inc., No. 3; d/b/a Globe Shopping City, 204 NLRB No. 109 (1973).

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge, as modified below, and hereby orders

[5]Montgomery Ward & Co., Inc., 145 NLRB 846 (1964), modified in other respects 339 F.2d 889 (C.A. 6, 1965).

that Respondents, Alberts, Inc. and Detroit Shoe Company, Detroit, Michigan, their officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order, as so modified:

1. Substitute the following sentence for the first sentence in paragraph 2(a):

"(a) Post at its Lincoln Park, Northland and Universal Mall stores copies of the attached notice marked 'Appendix.' "

Dated, Washington, D.C. Sep 27 1974

John H. Fanning, Member

Howard Jenkins, Jr., Member

John A. Penello, Member

(SEAL) National Labor Relations Board

UNITED STATES OF AMERICA
Before the National Labor Relations Board

Alberts, Inc. and Retail and Department Store Employees, Amalgamated Clothing Workers of America, AFL-CIO	Case 7-CA-10399
Alberts, Inc., and Detroit Shoe Company, and Retail and Department Store Employees, Amalgamated Clothing Workers of America, AFL-CIO	Cases 7-CA-10384 7-CA-10411 7-CA-10439 7-CA-10489 7-CA-10563 7-CA-10525

Order Correcting Decision and Order

On September 27, 1974, the National Labor Relations Board issued a Decision and Order in the above-captioned case[1] finding that Respondent had violated Section 8(a)(1), (3) and (5) of the Act. Thereafter, on October 21, 1974, the Charging Party filed a Motion for Clarification and/or Reconsideration. Respondent filed a statement in opposition to said Motion.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

[1] 213 NLRB No. 94

The Board, having duly considered the Charging Party's Motion, Respondent's statement in opposition thereto, and the entire record herein, makes the following findings:

We agree with Respondent's contention that the motion was untimely filed as a motion for reconsideration under Section 102.48(d) of the Board's Rules and Regulations, Series 8, as amended. However, we find that the motion was timely filed as a request to correct an obvious error in the Board's Decision and Order and we shall consider and treat it as such.

We find merit in Charging Party's contention that the Board erred in ordering Respondent to post the Notice to Employees at only three of Respondent's stores in the Greater Detroit metropolitan area. Since Respondent's no-solicitation rule, which the Board found violative of Section 8(a)(1) of the Act, was promulgated, distributed, and explained to the employees at all of Respondent's stores in the Greater Detroit metropolitan area, the Notice to Employees properly must be posted at all such stores, as the Administrative Law Judge had recommended in his Decision, rather than at only three such stores, as the Board had ordered.

Accordingly, the Board hereby corrects its Decision and Order[2] by deleting therefrom the paragraph immediately preceding the paragraph entitled "Order," and by substituting the following paragraph in place of the paragraph appearing thereunder:

[2] The Decision and Order will appear in the published NLRB volume of 213 as corrected herein.

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge, and hereby orders that Respondents, Alberts, Inc., and Detroit Shoe Company, Detroit, Michigan, their officers, agents, successors, and assigns shall take the action set forth in the said recommended Order.

Dated, Washington, D.C., December 19, 1974.

John H. Fanning, Member

Howard Jenkins, Jr., Member

John A. Penello, Member

(SEAL) National Labor Relations Board

Regional Director's Decision and
Order of Election
7-RC-11789

UNITED STATES OF AMERICA
Before the National Labor Relations Board
Seventh Region

Alberts, Inc.
Employer
and Case No. 7-RC-11789
Retail and Department Store
Employees, Amalgamated
Clothing Workers of America,
AFL-CIO
Petitioner

A. David Mikesell, Esq., of Detroit, Michigan, and Robert Radner, Esq., of Southfield, Michigan, for the Employer.
Bernard J. Firestone, Esq., and Hiram S. Grossman, Esq., of Detroit, Michigan, for the Petitioner

Decision and Direction of Election

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before B. Allan Benson, Hearing Officer of the National Labor Relations Board. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Sections 3(b) of the Act, the Board has delegated its powers in connection with this case to the undersigned Regional Director.

Upon the entire record[1] in this case, the Regional Director finds:

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The labor organization involved claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9 (c)(1) and Section 2(6) and (7) of the Act.

4. Alberts, Inc., a Delaware corporation, is engaged in the retail sale of women's clothing. The Employer has 48 stores in Michigan, Ohio and Illinois, 24 of which are located in what is referred to as the Detroit metropolitan area. Of these 48 stores, there are six in what is called the Alcove Division, which is a wholly-owned subsidiary of Alberts, Inc. sharing common officers with its parent corporation. Four of the 24 Detroit metropolitan area stores are within the Alcove Division. In approximately 15 of the 48 total stores and seven of the 24 Detroit metropolitan area stores, but not including the one petitioned for, the Employer maintains a lease arrangement with the Detroit Shoe Company.

The parties are in general agreement that the composition of any appropriate unit should

[1]The Employer and the Petitioner have filed timely briefs which have been duly considered.

include all full-time and regular part-time selling and non-selling employees. The dispute is to the scope of the unit. The Petitioner seeks to represent the employees in a one-location unit, limited to the Employer's General Motors Building store in Detroit, Michigan, at which approximately six employees are employed. Taking a contrary position, the Employer asserts that a unit limited to the General Motors Building store is inappropriate and that the only appropriate unit would be one composed of all 24 of its stores located in the Detroit metropolitan area, at which approximately 470 employees are employed.

The parties stipulated and agreed to incorporate in the instant record the testimony given by William B. Klinsky in Case No. 7-RC-11675 with respect to the Universal City Shopping Center store, involving the same parties, with the provision that any testimony dealing specifically with said store would not be applicable to the facts pertaining to the General Motors Building store.

There is no history of collective bargaining with respect to the employees at the General Motors Building store, nor does any labor organization seek to represent any of the employees involved herein in a unit different from that sought herein by the Petitioner. The Petitioner was certified on July 2, 1973, with respect to the employees at the Universal City Shopping Center store.

As is common in retail chain operations, there is a high degree of centralized administration in the functioning of the Employer's facilities. The Employer's central office in Ferndale, Michigan, services all stores.

Each store is headed by a manager and either one or two assistant managers depending on its size. The General Motors Building store has only one assistant manager. In addition to the store manager, each store is superintended on an overall basis by a line supervisor who reports directly to the Employer's president; there are four line supervisors who maintain superintending control over the Detroit metropolitan area stores. The vast majority of the line supervisors' time is spent travelling from store to store, each visiting the respective stores within their jurisdiction about once a week. The line supervisors oversee the mechanical operations of the stores, including exterior condition and store arrangements, are responsible for the performance of the managers and assistant managers, observe the performance of individual employees, oversee that each store's payrolls are kept within guidelines established by the main office, review the weekly schedule of hours prepared by each of the managers, and change the employee complement when the volume of business so necessitates. A director of personnel, recently appointed, is in charge of labor relations matters, including administration of a wage and benefits program, for virtually all of the Employer's stores. There is a director of security for all stores whose functions include verifying the truthfulness of employee applications and enforcing security guidelines. The latter job duty brings him in contact with employees in all stores. There is one supervisor who trains, promotes, and transfers all cashiers. The Employer also employes an outside service organization which sends "shoppers" into the various stores for purposes of evaluating employees based upon instructions given to them by the security director.

The total employment complement for each store is determined centrally, according to each location's volume of business. The total number of work hours for each installation during any period is likewise determined centrally. Pay scales, employee benefits, and vacation periods are uniform for all stores. Payroll functions are carried out at the Employer's central office in Ferndale, Michigan. Store hours are uniform, except where lease obligations require the Employer to adhere to the hours of a particular shopping center. All stores are closed for the same holidays. The merchandise sold at all stores is essentially the same, is ordered centrally by the main office and shipped to the individual stores from the central distribution center in Ferndale, Michigan. In addition, merchandise is transferred between stores as the need arises or for liquidation sales. The Employer employs buyers who work out of the main office and who visit the stores to, among other things, observe inventory levels and discuss with the employees their selling experiences. Employees of the same departments from all the stores meet as a group once a year primarily to discuss merchandising in their respective areas. The Employer also has a sales incentive program, which operates by departments on a multi-store basis. Finally, advertising is prepared by an advertising director housed in the main office in Ferndale. The vast majority of the Employer's advertising budget is spent on area-wide advertising in "The Detroit News" and "Detroit Free Press", the principal area newspapers. However, the record indicates that advertisements are placed solely for the General Motors Building store in

a publication circulated only in its neighboring business area.

Each of the Employer's 48 stores is under the direct supervision of a store manager, who is responsible for its day-to-day operation. The authority of the various managers appears to be directly related to the size of their respective stores with managers of the larger stores clothed with more authority. Thus, managers in the larger stores interview applicants, hire employees without consulting their line supervisor, have discretion in setting starting pay rates, can grant merit increases on their own initiative, establish work schedules, determine which employees will have their hours reduced as well as which employees will be laid off in the event that such actions are found necessary, determine which employees will be recalled, establish vacation schedules and finally, reprimand, discipline and discharge employees on their own.

The General Motors Building store is one of the Employer's smaller stores and, as a consequence, its manager, Kay Marmon, does not possess the degree of authority of managers of larger stores. However, her responsibilities are by no means insubstantial. While her line supervisor, Irving Brandt, visits the General Motors store usually once a week for about three or four hours and speaks to her on the telephone on the average of once a day, it is Marmon who has direct and immediate supervision over the store's employees. She is responsible for the store's day-to-day operations; and she is the person to whom the employees must, at least initially, look with respect to matters relating to their employment. Marmon interviews

job applicants and after screening the applications, she transmits to Brandt, with her recommendations, only those applications of individuals she would consider hiring. While there is testimony that with respect to the General Motors Building store it is the line supervisor who does the actual hiring and then only after the director of security has verified the application, it also appears from the record that this practice is not always followed and that Marmon has in fact hired employees without seeking Brandt's prior approval and before obtaining security clearance. In addition, when the applications are sent to Brandt, he relies solely on the information provided by Marmon in making his decision and he appears to routinely accept her recommendation as to hiring, pending clearance by the security officer. Due to the fact that the General Motors Building store is open only from 9:00 a.m. to 5:30 p.m., Monday through Friday, there is only one work shift. However, Marmon does get involved in determining the work hours of part-time employees. When temporary transfers are necessary, the line supervisors, after deciding from which stores the employees will come, will inform the various store managers of the number of their employees that are needed, and thereupon it is usually the respective store managers, including Marmon, who will decide which employees will be transferred. While it is Brandt who grants pay increases at the General Motors Building store, Marmon's opinion is sought before a decision is made. When layoffs are necessary, the usual procedure is for the least senior employee to be laid off. However, the managers, based upon their individual determinations as to the competency of their em-

ployees, can recommend that others than the least senior employees be laid off. The employees at the General Motors Building store take their various complaints to Marmon, who, in her discretion, can act on them without consulting Brandt. Marmon disciplines employees as evidenced by her handling of an incident concerning an employee in which she ordered the employee off the floor for misbehavior. Finally, although it is not clear whether it was in fact Marmon who terminated the above-referred to employee, she in effect recommended such action be taken and was supported apparently without question.

With respect to interchange of employees among the Detroit metropolitan area stores, the Employer submitted exhibits listing the names of those employees either temporarily or permanently transferred among the Detroit metropolitan area stores since April 1971, as well as weekly payroll time sheets from all 24 stores for the period from April 1971 through March 1973. The Employer's third exhibit indicates that 13 employees were temporarily transferred in the first quarter of 1973. Of this last number, one employee's transfer, Nancy Gruenstein, was listed twice; another employee, Andy Winer, whose name appears twice, is an assistant manager; two employees, D. Minasian and J. Renard, are listed twice each, one transfer indicating a move from Albert's Boutique to Alcove Birmingham and the second showing a move back to the Boutique. Since Employer's Exhibit Number 5 indicates that these two employees are regularly employed at the Boutique store, their return to this store is not, in the opinion of the under-

signed, a true reflection of a temporary transfer. In addition, the record indicates that M. Iaco, whose name also appears as Iocco was permanently transferred on January 6, 1973 from the Northland store to the Dequindre store and also temporarily transferred on January 13, 1973 from Northland to Dequindre. Inspection of Employer's Exhibit Number 5 fails to reveal this temporary transfer, which in any event, appears to be incongruous with the prior permanent transfer from and to the same store. Thus, of the 13 temporary transfers listed for the first quarter of 1973, there were in fact only eight transfers of non-managerial employees, none of which involved the General Motors Building store.

The average number of hours worked by transferred employees while away from their regular store was less than eight and one half, which number of hours the Employer indicated represents less than one day's work. As indicated in the record in the previous case, employees who are temporarily transferred continue to be paid by the store at which they are regularly stationed. When an employee works for consecutive weeks at a store other than his regular one, the Employer counts the transfer in each such week as a separate one. The time sheets (Employer Exhibit Number 5) from which Employer Exhibit Number 3 was fashioned do not indicate whether the days worked were consecutive, such as Friday of one week and Monday of the next, which, if that were the case, would not constitute, in the opinion of the undersigned, two different transfers. Testimony in the record indicates, however, that the Employer would count such occurrences as two transfers. Due to the factors above, it is difficult to determine

the exact number of temporary transfers that occurred during 1972. There were approximately 110 temporary transfers of non-managerial, unit employees during this period. This figure also appears possibly to be overstated as evidenced by the fact that employee N. Battisti is listed five times for five consecutive weeks, at least some of which weeks she worked solely at the John R. store. Employee E. Stillman is listed four times for four consecutive weeks. Also included on the list are warehouse and office employees which are outside the job classifications involved herein. Roughly one half of the total number of 1972 temporary transfers were of eight hours or less and only one such transfer concerned the General Motors Building store.

Six employees were permanently transferred to other locations in the last three quarters of 1971, 25 in 1972 and 12 in the first four months of 1973. Of these last 12, four were transferred when the Miracle Mile store closed and one employee Sue Gillis (also appearing on the list under the spelling of Susan Gilles) was transferred again one month later. Of the permanent transfers, only one in 1972, involved the General Motors Building store. At the end of April 1971, 1972 and 1973, respectively the total employment complement at the Detroit area stores consisted of approximately 410, 330, and 470 employees.

While there are factors present here which would support a finding that an area-wide unit may be appropriate, they are not of sufficient weight, considering the record as a whole, to negate the appropriateness of a narrower unit. McCoy Co., 151 NLRB 333; Montgomery Ward & Co., Incorporated, 150 NLRB 598; Sav-On Drugs, Inc., 138 NLRB 1032.

As indicated in the Decision and Direction of Election in 7-RC-11675, the individual store managers are clothed with substantial autonomy in supervising and controlling the daily operations of their respective stores, and that the centralized activities of the Employer do not have such a widespread impact as to submerge the commonality of the interests and conditions of employment of the employees at any of the individual stores, who form a cohesive and independent grouping of employees. While there is testimony in the present record to indicate that not all the stores managers have the same degrees of authority, testimony does not indicate that it is the exception rather than the rule for store managers to possess a high degree of autonomy. This factor is of major importance in determining scope of unit issues. Since a larger unit is claimed to be the only one appropriate, it is necessary to examine that overall unit and the characteristics of all the stores within the unit rather than just the single General Motors Building store. Employees in the larger stores perform their duties under the immediate supervision of the local store managers who hire them, set their wage rates, may discipline or discharge them, and who personally and effectively are involved in the daily determinations of personnel matters, such as setting of work hours, temporary transfers, vacations, and other terms and conditions of employment. There is geographic separation of the stores. Though Marmon's authority is not this broad, she does play an important role in determining which employees will be hired and fired and she also is responsible for the day-to-day operations of and employee functionings at the General Motors Building

store. While the line supervisors have ultimate control over certain matters in the various stores, there are four different supervisors responsible for a varying number of Detroit metropolitan area stores and, thus, the ultimate supervision is dissimiliar. The number of temporary transfers, while a factor to be considered, is not sufficiently extensive to mitigate a finding that a single store unit is appropriate, especially in light of the fact that such transfers are primarily on a voluntary basis, are for short periods of time and that the transferred employees continue to be paid from their "home" store. Finally, the number of permanent transfers are small in context of the large employee complement and have involved the General Motors Building store only once in the past two years.

Based upon the above, and the record as a whole, I find that the single store unit sought herein is appropriate for the purposes of collective bargaining.[2] Neisner Bros., 200 NLRB No. 137; Big N Department Store No. 333, 199 NLRB No. 28; Angeli's Super Valu, 197 NLRB No. 22; Angelus Furniture Manufacturing Co.,

[2]It is again noted that on April 10, 1973 in Case No. 7-RC-11675, the undersigned concluded that the Employer's Universal City Shopping Center store constituted an appropriate bargaining unit. Request for Review was filed and on May 1, 1973, the Board denied such Request for Review.

192 NLRB No. 137; Haag Drug Co., 169 NLRB 877; Cf. Food Marts, Inc., 200 NLRB No. 5; Gray Drug Stores, Inc., 197 NLRB No. 105; Twenty-First Century Restaurant of Nostrand Avenue Corp., Licensee of McDonald's Corporation, 192 NLRB No. 103. Upon consideration of the entire record, I find that the factual configuration with regard to the unit determination herein is materially different from the facts of Gray Drug Stores, supra and Twenty-First Century-Nostrand, supra, cited by the Employer in its brief in support of its contention that a single store unit would be inappropriate.

For the reasons explicated above, I find the following unit to be appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act, and I shall direct an election therein:

All full-time and regular part-time selling and non-selling employees[3]

[3]There is a question as to the status of Gloria Hittle who is referred to as either a department head or assistant manager. While Hittle has taken over for Marmon when the latter was on vacation, during which time Brandt visited the store more frequently than usual, a replacement is being brought into the store when Marmon will be off for an anticipated medical absence. Hittle does receive approximately a twenty per cent higher salary than the other sales employees, but punches a time clock as they do. Hittle receives a higher discount on her own purchases than do the other employees. In addition to engaging in selling, Hittle also handles customer complaints and cashiering duties. However, there is no in-

employed by the Employer at its General Motors Building store; but excluding professional employees, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot will be conducted by the Regional Director among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations.[4] Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who

[3](continued) dication in the record that other than replacing Marmon when the latter took a vacation, did Hittle engage in any supervisory functions over the employees in the General Motors Building store. Based upon the above and the record as a whole, I find that Hittle's engaging in supervisory duties is sporadic and that she is not a supervisor within the Act's meaning.

[4]Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the Board in Washington, D.C. This request must be received by the Board in Washington, D.C. by July 30, 1973.

retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period and employees engaged in a strike who have been discharged for cause since the commencement thereof, and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.[5] Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by Retail and Department Store Employees, Amalgamated Clothing Workers of America, AFL-CIO.

Dated at Detroit, Michigan, this 17th day of July, 1973.

/s/ Bernard Gottfried

(SEAL)

Bernard Gottfried, Regional Director
National Labor Relations Board
Seventh Region
500 Book Building
1249 Washington Boulevard
Detroit, Michigan 48226

[5]In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear Inc., 156 NLRB 1236; NLRB v.

[5](continued) Wyman-Gordon Company, 394 U.S. 759. Accordingly, it is hereby directed that an election eligibility list, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. The Regional Director shall make the list, two copies of which are requested, available to all parties to the election. In order to be timely filed, such a list must be received in the Regional Office, 500 Book Building, 1249 Washington Boulevard, Detroit, Michigan 48226, on or before July 24, 1973. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

UNITED STATES OF AMERICA
Before the National Labor Relations Board
Seventh Region

Alberts, Inc., Detroit Shoe Company[1]

Employer

and

Case No. 7-RC-11675

Local 876, Retail and Department Store Employees, Amalgamated Clothing Workers of America, AFL-CIO

Petitioner

Marvin Breskin, Esq., of Detroit, Michigan, and Robert Radner, Esq., of Southfield, Michigan, for the Employer.

Bernard J. Firestone, Esq., and Hiram Grossman, Esq., of Detroit, Michigan, for the Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was

[1]The name of the Employer is set forth as it was amended at the hearing. Detroit Shoe Company is a lessee at various Alberts, Inc. stores. Although it was not served with the Notice of Hearing, the attorney for Alberts, Inc. entered an appearance for Detroit Shoe Company and represented it in the proceedings. The parties agreed that any election directed should include employees of Detroit Shoe Company.

held before Frances B. Rohlman, Hearing Officer of the National Labor Relations Board. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Sections 3(b) of the Act, the Board has delegated its powers in connection with this case to the undersigned Regional Director.

Upon the entire record in this case, the Regional Director finds:

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The labor organization involved claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9 (c)(1) and Section 2(6) and (7) of the Act.

4. Alberts, Inc., a Delaware corporation, is engaged in the retail sale of women's clothing. Detroit Shoe Company, a Michigan corporation, is engaged in the retail sale of women's shoes at various Alberts, Inc. stores, including the petitioned-for Universal City Shopping Center store in Warren, Michigan. The parties, although in dispute as to the geographic scope of the unit, have stipulated that a unit encompassing all full-time and regular part-time selling and non-selling employees employed by the Employer, including employees of Detroit Shoe Company; but excluding professional employees, guards and supervisors as defined in the Act, would con-

stitute an appropriate unit for the purposes of collective bargaining.[2]

Petitioner seeks to represent the foregoing unit constituents in a one-location unit limited to the Employer's Universal City Shopping Center store in Warren, Michigan, at which approximately 25 employees are employed. Taking a contrary position, the Employer asserts that a unit limited to but one of its stores is inappropriate and that the only appropriate unit would be one composed of all 24 of its installations located in the Detroit metropolitan area.

There is no history of collective bargaining as to any of the above-mentioned stores, nor does any labor organization seek to represent any of the employees involved herein in a unit different from that sought herein by the Petitioner.

As is common in retail chain operations, there is a high degree of centralized administration in the functioning of the Employer's facilities. The Employer's central office in Ferndale, Michigan, services all stores.

Each individual store has a manager and two assistant managers. In addition, each store is superintended by a line supervisor who reports directly to the Employer's president. There are two line supervisors in the Detroit metropolitan area, each of whom is responsible for

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[2]The parties further stipulated that warehousemen and general office clerical employees at the Employer's central office located in Ferndale, Michigan should be excluded from any unit found to be appropriate.

roughly one half of the stores located in that area. The vast majority of the line supervisors' time is spent traveling from store to store, each visiting the respective stores within their jurisdiction on the average of once a week. The functions of the line supervisors include overseeing the mechanical operations of the stores, including examination of the exterior conditions, cleanliness and store arrangements. In addition, the line supervisors are responsible for the performances of the managers and assistant managers. They also observe the performances of individual employees, oversee that store payrolls are kept within the guidelines established by the main office, and review the weekly schedule of hours prepared by each of the managers of the stores under their superintendence.

The total employment complement for each store is determined centrally, according to each location's volume of business. Pay scales, employee benefits, and vacation periods are uniform for all stores. Payroll functions are carried out at the Employer's central office in Ferndale, Michigan. The total number of work hours for each installation during any period is likewise determined centrally. Store hours are uniform, except where lease obligations require the Employer to adhere to the hours of a particular shopping center. All stores are closed for the same holidays. The merchandise sold at all stores is essentially the same, is ordered centrally by the main office and shipped to the individual stores from the central distribution center in Ferndale, Michigan. Advertising is prepared by an advertising director housed in the main office in Ferndale. The vast majority of the Employer's advertising budget is spent

on area wide advertising in "The Detroit News" and "Detroit Free Press".

The record establishes that 49 employees were permanently transferred from one store to another during the period from January 1972 unitl mid-March 1973. Of this number, however, only 15 non-managerial employees, or 3.5% of the approximately 425 potential overall unit employee complement were transferred between Detroit metropolitan area stores. With regard to temporary transfers, employees are interchanged whenever a need arises for a larger group of employees in an individual store, such as for a grand opening or a special event. Such transfers occur between 25 to 30 times a year. When additional employees are needed at a particular store, a line supervisor will contact a store manager and request a certain number of employees. The individual store managers select the employees who are to be temporarily transferred. Employees who are temporarily transferred continue to be paid from the store in which they are permanently employed and the latter store is charged for that employee's time.

Each store is under the direct supervision of the store manager who is responsible for its day-to-day operation. The store managers do their own interviewing and hiring of employees. It is the store manager's function to alert the central office of insufficiency in the employment staffing for the store. However, with respect to seasonal employees, the managers can hire these without first notifying the central office. The store managers have discretion in setting starting pay rates and consult with the line supervisor only when they wish to hire an em-

ployee at a rate in excess of that set out in the company policy. In addition, store managers can grant merit increases without first seeking approval from the line supervisors. While the number of employees for each store is centrally determined, the store managers establish the weekly schedules of hours according to what they feel are the needs of their respective stores. Alteration of work schedules and days off is effectuated directly by the store managers. They will determine as to which employees will have their hours reduced as well as to which employees will be laid off in the event that such actions are found necessary. Likewise, the store managers will decide as to which employees will be recalled. Vacation schedules are established by the store managers within the specific months allocated centrally. When temporary transfers are necessary, the line supervisors will inform the various store managers of the number of employees that are needed, but it is the respective store managers who will decide which employees will be transferred. Finally, store managers can reprimand, discipline and discharge employees on their own.

Although the foregoing recitation may support a finding that an area-wide unit may be appropriate, the undersigned finds that the appropriateness of such a unit does not under the factual circumstances found herein negate the appropriateness of a narrower unit. McCoy Co., 151 NLRB 383; Montgomery Ward & Co., Incorporated, 150 NLRB 598; Sav-On Drugs, Inc., 138 NLRB 1032.

On the basis of the record, it is clear that individual store managers are clothed with substantial autonomy in supervising and control-

ling the daily operations of their respective stores and that the centralized activities of the Employer do not have a substantial relationship to the interests and conditions of employment of the employees at any of the individual stores, who form a cohesive and independent grouping of employees.

The employees perform their day-to-day duties under the immediate supervision of the local store managers who hire them, set their wage rates, may discipline or discharge them, and who personally and effectively are involved in the daily determinations of personnel matters, such as setting of work hours, temporary transfers, vacations, and other terms and conditions of employment. There is geographic separation of the stores. Permanent transfers between the stores is of a limited degree and lacks sufficient significance to militate against finding a single store unit to be appropriate. Based on these factors, and the record as a whole, I find that a single store unit is appropriate for the purposes of collective bargaining. Neisner Bros., 200 NLRB No. 137; Angeli's Super Valu, 197 NLRB No. 22; Angelus Furniture Manufacturing Co., 192 NLRB No. 137; Haag Drug Co., 169 NLRB No. 111, Cf. Food Marts, Inc., 200 NLRB No. 5; Gray Drug Stores, Inc., 197 NLRB No. 105; Twenty-First Century Restaurant of Nostrand Avenue Corp., Licensee of McDonald's Corporation, 192 NLRB No. 103.

For the reasons explicated above, I find the following unit to be appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act, and I shall direct an election therein:

All full-time and regular part-time selling and non-selling employees employed by the Employer at its Universal City Shopping Center Store, including employees of Detroit Shoe Company; but excluding professional employees, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot will be conducted by the Regional Director among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations.[3] Eligible to vote are those in the unit who were employed during the payroll period immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period and employees engaged in a strike who have been discharged for cause since the commencement thereof, and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.[4] Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by Local 876, Retail and Department Store Employees, Amalgamated Clothing Workers of America, AFL-CIO.

Dated this 10th day of April, 1973 at Detroit, Michigan.

/s/ Bernard Gottfried
Bernard Gottfried, Regional Director
National Labor Relations Board
Seventh Region
500 Book Building
1249 Washington Boulevard
Detroit, Michigan 48226

(SEAL)

[3] Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the Board in Washington, D.C. This request must be received by the Board in Washington, D.C. by April 23, 1973.

[4] In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear Inc., 156 NLRB 1236; NLRB v.

[4](continued) Wyman-Gordon Company, 394 U.S. 759. Accordingly, it is hereby directed that an election eligibility list, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. The Regional Director shall make the list, two copies of which are requested, available to all parties to the election. In order to be timely filed, such a list must be received in the Regional Office, 500 Book Building, 1249 Washington Boulevard. Detroit, Michigan 48226, on or before April 17, 1973. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

Helen Pochinco, a Universal Mall salesgirl since 1965, testified that she received a five-cent hourly raise in April or May of 1973. Pochinco had received raises in earlier years. Unlike Thayer and Dickason, Pochinco had made a request for the 1973 raise.

Margaret Prano, a cashier at Universal Mall, who was a Union observer at the May 10 election,testified that she had asked for and received a wage increase in March 1973. Her hourly increase amounted to ten cents an hour.

Sharon Lee Duncan worked at the Universal Mall store for only a brief period, from February to June 1973. She recalled that she had asked for and received a small increase in May but only after some discussion among management representatives as to her sympathies in the ongoing organizational campaign.

Respondents contributed to the evidentiary material here relevant by introducing into evidence two weekly payroll timesheets from its Universal Mall business records, one sheet for the week ending February 24, 1973 and the other, for the week ending March 3, 1973. The timesheet for the week ending February 24, 1973 reveals five-cent increases for Dickason and Pochinco but no increases for anyone else on the roster. The timesheet for the following week ending March 3, 1973, reveals another five-cent increase for Dickason, a similar raise for Thayer and ten-cent raises for three of the remaining 18 or so employees on the roster.

I credit the testimony of Tonda Thayer except that I find the raise actually given her as

shown by the timesheet was for five cents, not ten. I credit the testimony of Ickason except that I find on the basis of the timesheets that her successive five-cent increases were for the weeks ending February 24 and March 3, respectively. I credit the testimony of Pochinco except that I find that the last five-cent increase to which she testified, the only one she received in 1973, was granted in the latter part of February 1973 as the February 24 timesheet shows rather than in April or May of 1973 as she recalled. Finally, I credit the testimony of Prano and Sharon Lee Duncan as to the amount and timing of their increases. Significantly, Respondents did not put into evidence timesheets to challenge the testimony of Prano and Duncan; the only timesheets put into evidence were the two already described.

The burden of proof that the foregoing raises had the illicit objective or effect of alienating the employees from the Union rests, of course, upon General Counsel. In this respect certain matters are clear. First, the raises were granted during the critical pre-election period when the organizational campaign among the Universal Store employees was at its height and Respondents were bending their every effort to defeat unionization. The recipients of the raises here under consideration were the targets of Respondents' attentions not only with respect to the raises but also with respect to other techniques employed by Respondents and described in more detail in this Decision.

General Counsel's
Exhibit 2
7-CA-10399

Summary of Meeting

This memorandum is a summary of the points which we have covered during our meetings with you.

1. Whether or not a union represents you for the purposes of collective bargaining is up to you and not up to the union or the company or the government. You have the right to refuse to sign any cards. You can throw them away. You have the right to refuse to honor any leaflets and you have the right to refuse to discuss the union with any union representative.

2. During this time that the union is trying to organize the employees, the company will expect employees to render their usual good service to the company and union organizers will not be allowed to discuss the union during working hours on company property. Employees who desire to discuss the union between themselves may do so during non-working hours, making sure that their discussions do not interrupt their normal work.

3. It is a violation of Federal Law to threaten employees with regard to their sympathies for or against the union. The company will not threaten, intimidate or coerce any employees on account of their sympathies. It is illegal for the union to make any promises or to threaten employees or in any way to intimidate or coerce employees in order to get

them to participate or to sign union cards. It is illegal for the union to promise you that they can get for you any increase in wages or benefits. If any of you have been threatened or given any promises, we would be glad to receive the information and we can assure you that we will take the appropriate action with the appropriate Federal agency to make sure that you are not harassed, threatened or intimiated.

The company believes that our employees would be better off without a union. However, we intend to be in compliance with the law and to maintain the policies discussed in this memorandum.

If you have any questions, please contact Mr. Earle V. Kanners, 548-8511.

ALBERTS

Irving Mendelson

Irving Brandt

Mr. Mikesell: I do not object

Judge Ordman: Motion granted.

Q (By Mr. Alexander): Isn't it true that during the winter and spring of this year, you visited substantially all of the stores of Alberts in the Detroit area?

A When you say the spring and winter, I visited all the stores, but I visited them in this year, 1973.

Q Yes, when was that?

A I believe the beginning of March sometime.

Q Was anybody with you?

A Yes. Mr. Irving Brandt.

Q He's another area supervisor?

A Yes.

Q You made these visits all in March?

A Yes.

Q At that time, you talked to the employees?

A We talked to everybody.

Q Isn't it true that the employees were called together?

A Yes, sir.

Q You talked to them?

A Yes.

Q Prior to the time -- strike that, please. Who prepared that document, if you know?
A I believe Mr. Breskin.
Q You did not prepare it?
A No.
Q Were you consulted during the time it was prepared about what should go in it?
A No.
Q How did it come to your possession?
A I was called into Mr. Klinsky's office, asked to read it and sign it.
Q Was it Mr. Klinsky who gave you the duty of traveling around the stores and presenting it to the employees?
A Yes, it was.
Q With respect to paragraph 2 of GC 2, do you know whether the company prior to the time you read this to the employees, had a rule which related to the subjects covered in that paragraph?
A We have had a rule in our company since before I started with the company, which is over sixteen years ago, that there could be no outside activities, no solicitation, nothing could go on other than the retail business we were supposed to conduct during the day.
Q You said you became an area supervisor in 1967, what was your employment with the company in the ten years before that?
A I was a manager with the company in different stores.
Q A store manager?
A Yes.
Q You testified to the best of your knowledge, there had never before this time been a union organizing effort in the Alberts stores?
A I said to my knowledge.

Q Yes, to your knowledge.
A Yes.
Q Did the rule you refer to having been in standing since before your employment, had that ever been written, as far as you know?
A No.
Q How did you know if its existence?
A It's been told to me at least a hundred times. It's been discussed. It's been mentioned at meetings, company meetings. It's been -- it was one of the rules we have

A My name is William B. Klinsky.
Q Where do you reside?
A I reside at 881 Covington Road, Birmingham, Michigan.
Q You're employed by Alberts?
A Yes, sir.
Q What position do you hold?
A I'm the president of the company.
Q How long have you been employed by the company?
A I've been employed by the company for twenty-three years. Since 1950.
Q How long have you been president?
A Since 1968.
Q What positions did you hold prior to that?
A I was, prior to being present I was vice-president in charge of operations, finance. Prior to that I was store supervisor. Prior to that I was store manager and buyer.
Q When did it first come to your attention that there was union activity in your stores during 1973?
A The first time it came to my attention was in the later part of February of this year.
Q I'm going to hand you a document consisting of two pages which has been introduced and marked GC 2 and I ask that you look at that, if you would. Have you ever seen that document before?
A You mean in the form it's in now or the form it was in before these stamps?
Q If you disregard the Reporter's stamp, other than that.
A Yes, sir.
Q What were the circumstances of your seeing that document before?
A This document was a result of my meeting

with the Counsel, wherein which I expressed the company policies, the company's programs.
Q Excuse me. You referred to Counsel, Who was that?
A Mr. Breskin.
Q When did the meeting to which you refer take place?
A This meeting took place shortly after the initial knowledge that there was some union interest in our store.
Q You were testifying as to your meeting with Mr. Breskin. Would you tell us what you said to him during that meeting?
A I pointed out to him the circumstances that were existing at the time. I pointed out to him in the course of the conversation that we wanted to do whatever we could do and to express whatever we could express to our employees as to what our policies and practices were and how they should conduct themselves and what they should expect during this period of intervention and interest on behalf of the union.

As a result, this document was prepared, which I felt represented our attitudes and we therefore--
Q Was the document prepared by Mr. Breskin?
A Yes. But at my request and it was physically prepared by Mr. Breskin, yes, sir.
Q You had talked to him about this before that?
A Definitely. This is a compilation of the thoughts and ideas that were expressed and it was articulated and referenced in this document.

And we then distributed it to our supervisor who in turn distributed it to the personnel in our operation.

Q I'd like for you to read to yourself, paragraph 2.
A All right.
Q Do you recall specifically discussing the contents of paragraph 2 with Mr. Breskin?
A I do.
Q Prior to your conference with Mr. Breskin where you talked about this document, did Alberts have a practice or policy which in anyway related to the contents of paragraph 2 of that document?
A Yes, sir. We had had previous experiences wherein which we had interest on behalf of various unions back in 1955 when I was the manager of the Northland store.

We had, I believe it was the Amalgamated and/or the Retail Clerks who were attempting to organize our stores. And at that time I was involved in generating and instituting these policies.

Once again in 1964 we had an organizing campaign and again in 1965. There was an intervention by the union in an attempt to organize.
Q The store people?
A Yes, sir. And therefore I had experienced and observed and seen the -- what had gone on in our stores and the problems of the disservice to the customers and I was very careful to make sure these policies were clearly known and understood by the personnel so there would be no misunderstanding.
Q Prior to your meeting with Mr. Breskin, was there a policy or rule in effect that the company which covered the topic dealt with in paragraph 2 in other than a union context?
A Yes. In other words -- you mean no solicitation?

Q However you want to refer to it.
A Yes. Absolutely.
Q Would you describe what that policy was, please?
A The policy -- it's really a very simple basic policy. We're a retail company to give service to customers. And the answer is that the employee is not to do anything that would detract from the service to the customer.

It's just that simple. The customer is allowed to freely circulate in the sales are of our store and in those areas, we expect the employees to concentrate and to devote their entire time in the service and performing a service to this customer who in turn buys our merchandise and who in turn gives us the opportunity of staying in business.
Q Prior to the preparation of GC 2 --
A What's that?
Q That's the document. This is GC-2, I'm sorry. Had any rule relating to no soliciation or employee activities of that nature been put in writing by the company that you know of?
A Say that again, sir.
Q Had you any rule that was reduced to writing before this document was prepared, which related to no solicitation.
A No, sir.
Q In your experience as a store manager, how long were you a store manager?
A I was a store manager from 1950 to 1957. Seven years.
Q Was that unwritten rule which you described in effect at that time?
A Absolutely.

Q How long have you had that job?
A About five and a half years.
Q When you say all the store, what specifically--every store that Alberts runs?
A All the stores excepting Chicago. We don't get to Chicago very often.
Q During May of this year, did you have occasion to be in the Universal Mall store?
A Yes.

Q I'm handing you a picture which at the bottom is marked GC-4. It's a picture of an automobile. Do you' recognize that automobile?
A Yes, it's mine.
Q Do you recognize the person seated behind the steering wheel?
A That's me.
Q Do you recall the time when that picture was taken?
A I would say it was about either twenty or twenty-five minutes after nine.
Q On what day?
A The day -- I don't know. Oh, yes, I do. I think it was a Friday.
Q In what month? Maybe I can help you. Would it have been sometime in May of this year?
A It's been so long ago, I didn't keep no track. After that was done, I forgot about it. But I remember it was a Friday.
Q Where were you when the picture was taken?
A I was right across the street from the Universal Mall, at the Froling Lanes.
Q In the parking lot?
A Yes.

Q How did it happen you were there? That evening, sitting in your car?
A I was at the Universal Mall doing what I do normally.
Q When was this?

auditing and accounting and is responsible for the financial for the financial end of our company.
Q All right. Do you have management employees at the central office designated store operations supervisors?
A Yes, sir.
Q To whom do they report?
A The store operations supervisors report to me.
Q What is their general -- how would you describe their responsibilities generally?
A Well, they are -- they are -- they are line officers. In other words, we have -- we have Mr. Brandt and we have Mr. Mendelson and we have Mr. Lazar and we have Mr. Schwartz, Mr. Ron Schwartz, and we have Mrs. Murphy who are the line supervisors who deal directly with the stores and the personnel therein.
Q Which supervisor is responsible for the General Motors building store?
A That's Mr. Irving Brandt.
Q And those supervisors are responsible -- the stores are split up amongst those supervisors, are they?
A Yes, sir.
Q And they're each responsible for a certain number of the company's stores?
A That's true.
Q Now the company's buyers -- the company does employ people in the classification of buyer, does it not?
A Yes, sir.
Q Who do they report to?
A They report to -- they report directly and ultimately to Mr. Ernest Schwartz who is the head of our total merchandising.

Q Do the buyers work out of the Ferndale general office?
A All of the buyers are centralized in our main buying office at the 10811 North End location and, of course, their functions are not only to purchase the merchandise, but they're quite active in visiting the stores and working with the personnel.
Q What do they do when they visit the stores?
A Well, their job is to first make the determination as to the physical appearance and the layout and the characteristics of the merchandise. Then after they visually observe what the merchandise and the layout of it is, then they are in the process of talking with and discussing with the personnel what the hot items are. They talk with the personnel as to what items they think should be reordered. They just work in general with the people on the floor.
Q How many people are there in the classification of buyer approximately?
A Between buyers and assistant buyers there's about twelve.
Q And those twelve are engaged in the buying function that you just described, is that right?
A Seven of them are engaged in both ends that I've just discussed, the going to New York and purchasing the merchandise and then getting out to the stores, and the other five are their assistants and they do not get to New York but they do get to the stores themselves.
Q All right. Now what, if anything, do the store managers -- what part, if any, do the store managers play in the buying function? Do they ever go to New York?
A No.
Q They never go to New York to buy?

A No, sir. Their function is operations and personnel. They are not involved in any merchandising at all.
Q Do they determine the levels or the quantity of merchandise in their particular stores?
A No, sir.
Q Do they determine the pricing of merchandise in their stores?
A No, sir.
Q Who determines pricing?
A The buyers.
Q Now Mrs. Murphy you say is a store supervisor who's engaged in auditing and the cashier function. What does she do? Does she ever visit the stores?
A Oh, yes. Her job is primarily visiting the stores. Her job is to -- is to train the individual employees. If a cashier were to be lost in a particular store, she would --
Q By lost what do you mean?
A Well, she would leave us for whatever reasons she left.
Q Okay.
A It would be Mrs. Murphy's function to get to that store to determine the candidates that are being presented and to train those people in the -- in the operation of the -- of the daily cash report and the functions that are required at each individual store. She moves -- she moves the people around. In other words, she is involved in making the determination of which let's say assistant cashier is now qualified to become a full cashier in some other store and she will transfer the party or discuss the interests of that individual and make arrangements to move that party to some other location.

Q Now you described those supervisors you've been talking about, the store operations supervisors, as line supervisors. What does -- in addition to those people, what does the headquarters staff consist of?
A Well, we have a credit executive, Mr. Cendron, and we have Mr. Asher who is our director of receiving and distribution and we have Mrs. Sachs who is our director of advertising and we have Mr. Fedon who is our supervisor of

Q That's done by Cendron as well?
A We have a central office function. We have a staff of collection employees who do that exclusively.
Q All right. Now you said that Mrs. Sachs is in charge of advertising. Are there ever any instances of which you are aware where advertising is handled on a store-by-store basis by the store manager?
A No. The store manager does not do it on an individual basis.
Q The store manager, for instance, the G. M. manager, would not place an ad herself, is that correct?
A No, no. Absolutely not.
Q Mr. Asher is in charge of the warehouse. Is there ever any warehousing function that's carried on in the particular stores?
A No, sir.
Q Mr. Fedon you said was in charge of systems. What do you mean by systems? What does systems mean?
A Well, obviously to run a group of forty-eight stores, we have a tremendous amount of paper flow that emanates from central office to the individual stores, from the stores back to our central office, from store to store, and in order to maintain any kind of record keeping or any kind of semblance of control, we have a multitude of forms and records that are designed and sent out and worked with between the stores.

How Mr. Fedon is involved in designing these and in communicating with the individual stores on their proper use.
Q And then each store follows those systems that he sets up, is that right?

A Absolutely. Sure.
Q Would a store manager be empowered to establish his or her own systems which would be different from those established by Fedon?
A No, sir.
Q All right. Now Mr. Grunis is in charge of security. What in general terms does he do?
A Well, his responsibilities are to protect the assets of the company, and protecting the assets of the company are normally two-pronged. It's protecting it against the public that would come in normally and attempt to dissipate our inventory, and it's also to protect it against internal problems that might be caused by employees dishonesty.

So Mr. Grunis is involved in the controlling and protection in that area.
Q Now, Mr. Klinsky, in the hearing in Case No. 7-RC-11675, which involved the company's Universal store, you testified, did you not?
A I did.
Q And in that hearing you testified regarding the hiring procedure of the company. Have you since your testimony had

Q During that period, just the last couple years in general reference, were there any stores closed?
A Yes, sir.
Q What was that?
A Well, we closed the store at Miracle Mile in Pontiac. We also closed the John R and Twelve Mile store in Madison Heights.
Q And what caused you to close those stores? What was the reason why those stores were closed?
A Poor business.
Q Just economics?
A Economics, yes.
Q All right. Now I cut you off. Were there any others that you can remember that were closed?
A In this general area?
Q Yes, in this area.
A I think not.
Q All right. Now during the time that the Gratiot store was closed, what happened to those -- would that have been for a period of six months or --
A No. It took thirteen months.
Q Thirteen months. All right. What happened to the employees who were employed at that Gratiot store at the time of the fire?
A For the first six months, the company continued paying them. They were being held as our employees waiting to come back to the Gratiot and Seven Mile store. After the six month period, we placed them in our other stores.
Q All right. What happened to the employees at the Miracle Mile store when it was closed?
A Well, they were placed -- they were offered positions in our other stores.
Q Is the same true of the John R store?
A Yes, sir.

Q Going back for a minute to something we talked about earlier, Mr. Klinsky, the buyers, now they all work out of the general office in Ferndale, right?
A That's true, sir.
Q Now would you describe for us what they do on these store visits?
A Well, on their store visits -- their store visits are designated to working with the merchandise primarily. They observe the levels of inventories, the cleanliness of the inventories, the layout of the stores, and they convince themselves that the stores look as attractively as they possibly can. At the same time they communicate markdowns, at the same time they communicate transfers of merchandise between the stores, and at the same time they will talk with the personnel and attempt to get firsthand experiences of what the sales people are experiencing as to

Q (By Mr. Mikesell): Mr. Klinsky, does the company employ an outside organization on a contract basis that does what's referred to in the retail trade as shopping?
A Yes, sir.
Q Who is that that you employ?
A That's Seaboard Shopping Service.
Q What do they do? What does Seaboard do for your company?
A Well, they're under contract to go into each and every one of our stores and they visit them a certain number of times per month or whatever we contract for. They will approach customers on our behalf or rather approach sales personnel on our behalf and they will make an evaluation and send us reports as to their appearance and how they were approached and whether they asked to open up a charge account.

go right to their locker and put it in and I tell them that they're suppose to put it behind the desk. The manager is suppose to put a little tag on it and that's where it's suppose to be held.
Q Have you ever issued any written directives or instructions with respect to store security?
A Yes. When I first came on the job, about three or four months after I came on the job, myself and several of the supervisors we compiled what we call a security guideline, and we had a meeting and we passed them out to all the managers and this is what I work from when I go into the stores.

Mr. Mikesell: Would you mark that for me, please.

(Thereupon a document was marked Employer's Exhibit No. 1 for identification)

Q (By Mr. Mikesell): Mr. Grunis, this document that I'm handing you has been marked for identification E-1 at the bottom. Could you identify that, please?
A Yes. This is the security guideline that we published only ours has a red cover to it.
Q But this is --
A This is the information which is in this portfolio that we have. This is all the information.
Q Okay.

Mr. Mikesell: I'd like to offer that.

A Yes, that's correct.
Q Now are those programs applied to employees on a uniform basis from store to store?
A Yes, they are.
Q Would that uniformity extend to the Alcove stores?
A Yes.
Q And to the boutique store?
A It applies to all the stores.
Q It does not apply to the Arlan's store though, does it?
A No, it does not.
Q Now, Mr. Felder, with respect to those benefits, let's take vacation as an example. What's the company's vacation benefit?
A The company's vacation benefits are that they pay a week's vacation after one year of employment, two weeks paid vacation after two years of employment, three weeks paid vacation after ten years of employment.
Q Does any store manager have the power to grant a vacation allotment different from that you've described?
A No, they do not.
Q In the area of holidays, what's the company's benefit?
A The company's benefits with regard to holidays are that we pay six legal holidays, that's Christmas, New Year's, Memorial Day, Fourth of July, Labor Day and Thanksgiving, plus a seventh paid holiday which is the employee's birthday.
Q Is any store manager empowered to grant paid holidays any different from that you've described?
A No.

Q All right. In the area of insurance, does the company have any benefit for selling and non-selling store employees?
A The insurance program is through Blue Cross and Blue Shield. The benefit program works in this manner. That an employee has to sign up within the first thirty days of employment and the employee pays the amount that the insurance costs for the first three months. After three months of employment, the company picks up half of that insurance cost and after six months the company pays the full amount of the insurance cost.
Q Is any store manager empowered to grant a different insurance benefit to his or her employees than what you've described?
A No. These benefits are all controlled by the payroll department at the central office.
Q Now those benefits apply, do they not, to all the stores in the Detroit area and outside the Detroit area, is that correct?
A That is correct.
Q All right. Does the company have any policy with respect to employee discounts?
A Yes. The employees are entitled to a twenty percent

six months or longer.
Q Mr. Felder, if you could generalize with respect to the temporary transfers, which are covered in Exhibit E-3, would you say those transfers would be of a voluntary nature or of an involuntary nature?
A They're of a voluntary nature.
Q The temporary transfers would be of a voluntary nature?
A Yes, sir.
Q Well, how would that work exactly?
A Well, if we have a sale, the supervisor would call the store and would say I need so many people for a certain occasion. Let's say it's for a store opening or it's a special sale or it's for some other reason like somebody is sick and I need one or two people to fill in at this store. Now the store manager would go to his people and say would you like to go to this store, we need somebody over there, and if the person wants to go, fine, and, if they don't want to go, we'll have to go find somebody else.
Q So if they couldn't find anybody, the store would just have to go begging?
A Right.

the school to try to get her some help in the stock department. I called Cass I believe it was a few times and tried to get her some help and I have gotten her a stock boy once or twice.
Q Now if Miss Marmon, who is the store manager, is hiring, would you and have you ever become involved in the actual process of her hiring employees?
A Yes.
Q What was the extent of your involvement?
A Well, she would be hiring through my orders to start with and she would discuss it with me as to the type of person she is contemplating putting on if I hadn't been there and met this person.
Q Have there been occasions where you have been there and met applicants and reviewed applicants?
A I've taken some applications while I was there when she was busy or she wasn't there during her vacation or something like that. At that time I may have taken some applications and left them with her, yes.
Q Mr. Brandt, are you familiar with the review of applications by the security officer of the company?
A Yes, I am.
Q To your knowledge, how does that review operate at least with respect to the stores that you're responsible for?
A All applications are to go to Mr. Grunis for his

Q Then the store manager would make the decision on who to hire, is that correct?
A In many cases she would discuss it with me.
Q In all cases?
A To the best of my knowledge -- are we speaking about General Motors specifically?
Q Yes, let's talk about General Motors.
A Yes, I think she would discuss it with me.
Q In every case she talked it over with you before she hired a person?
A Yes.

Q Yes, how would they happen?
A Well, they could be -- they could originate by special orders requested from one store to the other.
Q Well, how does that -- how does that take place? Mechanically how does it work?
A Mechanically if a customer asks for a certain garment that is not in one of the stores, the sales girl would get on the phone and call unit control to find out which store shows this particular item.
Q Where is unit control?
A At the main office.
Q Okay. Then what happens?
A In Ferndale.
Q Then what happens?
A Then she would probably get a list of the different stores that possibly have this garment in stock. She would then call these different stores starting with one and try to locate the particular item that she wants. Then she would direct them to transfer it to the originating store. That's one reason for a transfer.

Another reason for a transfer would be if the buyers feel that one store needs a certain number of certain items that another store is overly stocked with, they would direct this transfer.
Q Now the first instance you talked about where the sales

A They would be unable to make that decision.
Q Mr. Brandt, do you ever get involved in the temporary transfer of employees from one store to another for any reason?
A Yes.
Q Now when a store, for instance, when you have one of these special sales or 3-D days, whatever it might be, needs employees, who makes the determination of where the employees come from to augment the staff at that store?
A I do.
Q If it's one of your stores?
A Right.
Q And then what do you do when you make that decision?
A I will call certain stores and I might specifically ask for certain people to work in the store for this certain event, and, if none of those people are available, I will ask the manager if he can get some people that will come down to work in that store.
Q You tell him the number and you either ask for a specific person, or, if they're not available, then he or she will send someone?
A Or even if they are available, I may ask for those certain people plus other people that he can come up with.
Q Has it ever happened so far as you know where an employee has been asked to go to a store temporarily and has refused to

Q Has there ever been an instance of which you are aware where Miss Marmon has given one of her employees an increase where you were not involved in that?
A No.
Mr. Mikesell: That's all I have.
Hearing Officer: Mr. Firestone?
Mr. Firestone: Just a few questions. Does he have the exhibits in front of him?
The Witness: Yes, I have them.

RECROSS EXAMINATION

Q (By Mr. Firestone): Would you look at Exhibit No. 3, please, the temporary transfers. Now directing your attention to page two, about a third of the way from the top you'll notice a Patricia Trate transferred from Northland to Woodward on 5-27-72?
A Yes.

A A dollar seventy an hour.
Q Now how was it determined that -- who made the decision as to what rate she would start at?
A Mr. Brandt.
Q Did he inform you of that?
A Yes.
Q When did Rosa Dash begin her employment at the G. M. store?
A About a day or two after Lorraine. It would be in the same month.
Q What rate did she start at?
A A dollar seventy.
Q Who determined that rate?
A Mr. Brandt.
Q Did he tell you?
A Yes.

Hearing Officer: Off the record.

(Discussion off the record)

Hearing Officer: On the record. In an off-the-record discussion, the parties worked out a stipulation after examining some inter-store transfer memos. Mr. Mikesell, would you like to present that?

Mr. Mikesell: All right. I'll give it a try. During the months of March and April, 1973, there were thirty-one separate transfers of goods from the G. M. store to other

call unit control and find out what stores had this particular coat in that size, and then she would proceed to call the stores that were listed on the sheets that they would give us of so many stores.
Q Over the phone this would be?
A Yes, over the phone.
Q Okay.
A She would find the coat and they would send it into us them. Whatever store that she found had this coat would send it into us.
Q Might the sales person in your store make more than one call to another store in each instance?
A Yes.
Q How many calls would you estimate might be made on an average?
A On an average. I would say on an average of about four.
Q Now when they call the other stores, who would they talk to?
A They would ask -- if they're calling for a coat, they would be asked to be connected to the coat department. Then whatever girl took that call, anyone from the coat department, or, if it was for sportswear, it'd be anyone from the sportswear department.
Q It would not necessarily be a person from management in that other store?

A Yes.
Q Is there any essential difference between these stores?
A No, sir.
Q Are some stores larger than others?
A Yes, sir.
Q In terms of square footage?
A Yes, sir.
Q Are some stores larger than each other in terms of the number of people that work in these stores?
A Yes, sir.
Q What are the sizes of the stores in terms of number of people? What does it range from to what?
A It can run from a minimum of six to a maximum of fifty.
Q Fifty?
A Yes.
Q Five-o?
A Right.
Q Now the merchandise which is sold in those stores, is it all ordered centrally?
A It is.
Q Where is the merchandise received for these stores?
A It's received at our central distribution center at 10811 North End, Ferndale, Michigan.
Q How does this merchandise then get to the individual stores?
A The merchandise is worked on by a team of buyers and distributors who make the determination what merchandise and what quantities are to be shipped to each of the branches.

The distributor then sends out a distribution sheet to the pickers, the pickers pick it, it's

charged out and invoiced to each individual store, and then it's put on our central trucks and shipped out to our individual stores.
Q So that there is central purchasing of all the merchandise in all these stores, is that correct?
A Absolutely.
Q Do you have a central payroll facility?
A We do.
Q Where is that?
A That is located at the same address.
Q And are all payroll checks made up there?
A They are, sir.
Q For all of these stores?
A Yes, sir.
Q Now does each store have a manager?
A They do.
Q Is there supervision beyond the manager of the stores?
A Yes, sir.
Q Who are they? Who are the supervisors?
A The table of organization is a store manager and two assistants. One in ready-to-wear and one in sportswear.
Q Above the store manager, what is the supervisory organization?
A Well, there are three supervisors that supervise the individual store operations and there are six coordinating supervisors who are merchandising supervisors.
Q Now the line supervisors, the non-merchandising supervisors, do they report to you?
A They do.
Q And there are three of those?
A That's true.
Q Do the three of them handle more than one store each?
A Yes, sir.

Q Do these line supervisors over the manager handle a portion of those twenty-three stores?
A I'm sorry. Say that question again.
Q Is there one line supervisor that handles all of these twenty-three stores?
A No, sir.
Q Are the twenty-three stores then broken up?
A Yes.
Q. Among how many of them?
A Two supervisors handle the twenty-four stores in question.
Q And both of them are located here in Detroit?
A Yes, sir.
Q And both of them report to you?
A Yes, sir.
Q Now one of the supervisors handles how many of the twenty-three stores?
A I'm not sure. I'm not sure on the distribution. I could compute that very quickly, but I just haven't computed it. I would say fifty-fifty if I had to right now.
Q All right. So one handles twelve or thirteen?
A That's right.
Q Now the rates of pay which are paid employees, do you have a starting rate?
A Yes, sir.
Q The starting rate applies to all fulltime employees?
A Well, fulltime and parttime.
Q Do you have a separate starting rate for parttime employees?
A Yes, sir.
Q Do you have a separate starting rate for fulltime employees?
A Yes, sir.
Q Who determines those starting rates?
A Basically I do.

Q You determine the starting rate for both fulltime and parttime?
A That is true.
Q Now is the starting rate then uniformly applied in all of these stores?
A It is.
Q Do you have any other common fringe benefits such as vacations?
A Yes, sir.
Q Who determines the amount of vacation?
A The decision is mine. The decision for the fringe benefits is basically my decision, but it's done in concert with other persons that I consult with.
QWho are those other persons that you consult with?
A I consult with the store supervisors, the treasurer, and normally a team of no less than two store managers -- two senior store managers.
Q Where are these store managers from?
A The store managers are from this unit of twenty-four stores.
Q These are two store managers taken from the twenty-four stores?
A They are normally the store managers with the most experience and ability to help us make a wise decision.
Q Then you consult with this group and you make a final decision of what the fringe benefit level will be and what the starting rates will be, is that correct?
A That is true.
Q Do you happen to know what your current vacation program is?
A Yes, sir.
Q What is it?
A Currently we are offering one week with pay

after one week, two weeks with pay after two weeks --
Q Pardon me. One week with pay after one week of service?
Mr. Firestone: That's beautiful.
The Witness: I'm sorry. One week with pay after one year of employment, two weeks with pay after two years of employment, three weeks with pay after ten years of employment, and four weeks with pay after twenty years of employment.
Q (By Mr. Breskin: Do you know whether or not this vacation schedule is uniformly applied in all of these twenty-four stores?
A It is, yes, sir.
Q It is?
A Yes, sir.
Q Do you have a holiday program?
A Yes, sir.
Q Do you know what the holiday program is?
A Yes, sir.
Q How many holidays do you grant?
A Well, we grant the six legal holidays.
Q All right. Do you know whether or not these holidays are applied uniformly throughout these stores?
A Yes, sir.
Q They are?
A Yes.
Q They're the same in all the stores?
A Yes.
Q Now you stated that you have meetings from time to time to determine the level of wages and fringe benefits, is that correct?
A That's true.
Q How often is this done?

A Well, the major review by top management is normally in October of each year. Once a year.
Q October?
A Yes.
Q Did you have such a review in October of '72?
A Yes, sir.
Q What determination did you make at that time? What did you do at that time?
A Well, we had this meeting of the individuals that I stated earlier and at that time we have an opportunity of reviewing competition, we have an opportunity of reviewing what our benefits and our schedules are, and we attempt to maintain a competitive condition to the entire communities

Q That would require --
A Approval from somebody at a higher level.
Q All right. Now on the scheduling of vacations, the scheduling of time off for vacations, is that done by the manager?
A It's done by the manager but within the confines of the policies that we have set forth for when vacations should take place.
Q Okay. When does -- who determines when vacations are going to take place?
A Well, again, that was a top priority decision that myself and this -- primarily myself.
Q Would that be a certain period of time say within three months?
A Say within from May -- from May to August.
Q I see. Then the store manager has latitude within that period of May to August?
A That's true.
Q But if he wants to grant vacations in April or in September, does he have to get prior approval from someone?
A Yes.
Q From his supervisor?
A That's true.
Q The merchandise that is in the store, the kind of merchandise, does the manager determine that or is that determined by the home office?
A No. That's determined by the central office. The merchandise in the store.
Q The quantity of the particular merchandise, is that determined by the home office or is that determined by the store manager?
A No, that's a home office function. That's a buyer's function.

CROSS EXAMINATION

Q (By Mr. Firestone): Mr. Klinsky, do you

have in front of you or can you get in front of you Employer's Exhibit No. 1 which is the permanent transfer list?
A Yes, sir.
Q Now I've counted the number of people on the list, but I wish you would count them. My figure that I came up with is forty-nine. Would you verify that?
A That's true, sir.
Q Now would you also verify that the number of employees that are listed on that sheet who were and are employed at

Q Who hires employees to fill vacancies at the Universal City store?
A The store manager.
Q Is it possible for that store manager to hire an employee at a rate in excess of what you call your procedure strike that -- your policy for hiring fulltime and parttime employees?
A Yes, sir.
Q Isn't it a fact that some employees are hired at higher rates than others?
A Yes, sir.
Q Who makes that decision?
A Basically that decision is made by the store manager in conjunction with his supervisor.
Q Are you saying that before a person is hired at a rate in excess of what your company policy is that the store manager consults with his supervisor in each case?
A Yes, sir.
Q That you know is a fact or are you telling me that that is company policy?
A I'm telling you this is company policy.
Q Now before an employee is hired at the rate indicated by company policy, does the store manager have to clear that with any other person?
A I'm sorry. Say that again, sir.
Q I'll rephrase my question. You have an opening in your Universal City store, for example, and a person comes in and makes out an application. Based upon what you've testified to, the store manager would know the rate of pay to pay that person?
A Yes.
Q Can the store manager hire that person?
A Yes.
Q And the store manager has hired that person or a similar person in the past, is that right?

A Yes, sir.
Q So there is no need for the store manager to consult with any other employee when they fill vacancies at the rate specified by the company?
A That is true.
Q And they make the sole determination of who is to be hired, is that correct, in that instance?
A In that instance, yes, sir.
Q And the only time that they have to ask for advice and consent is when they hire at a rate in excess of what the company policy is?
A That is true.
Q And your testimony is to the best of your knowledge that is done in each case, is that right?
A That is true.
Q But you have no personal knowledge of whether it's done in each case?
A That is correct.

Q Would you be aware of employees who have requested transfers that have been refused them?
A No, sir.
Q Would you be aware of any employee who requested a transfer and was told that they must stay in the store that they're in?
A No, sir.
Q Those just don't come to your attention?
A That is true.
Q Now let's use the Universal City store again as an example. How many employees roughly are in that store?
A Twenty-five.
Q How many employees are employed in a sales capacity?

REDIRECT EXAMINATION:

Q (By Mr. Breskin): I'd like to go over first in a little more detail the organization. You testified that these stores are controlled by a group of supervisors, part of whom are line supervisors and part of whom are merchandising coordinators.

A That's true.

Q What is the primary function of these line supervisors? What do they do?

A The line supervisor is responsible for the mechanical operation of the stores. In other words, they begin from the interior of the stores observing windows, observing conditions of the store in terms of cleanliness, observing store arrangements, but their primary function is the function to supervise and control the personnel in the organization in the individual stores.

Q Now do these line supervisors travel?

A Yes, they do.

Q Do they travel to the stores that they supervise?

A Their entire working hours are spent going within the twelve or fourteen or fifteen stores that they are identified to control.

Q Now you say that their primary function is to control personnel?

Mr. Firestone: I object. I don't think that's what he said at all.

Q (By Mr. Breskin): All right. What did you say? What is their primary function?

A Their primary function is -- it's the supervisor that we're talking about now?

Q Yes.

A The primary function of the supervisor is to control the entire operation of all of the stores. They are responsible for the determination of the manager's performance, they are responsible for

the determination of the assistant manager's performance, and they're responsible to see that the payrolls are kept within the guidelines that are instituted by the main office. They observe the performance of the individuals in the stores. They pass on schedules. They're consulted on all store operation functions that normally would be in the realm of discretion of management.

Q Okay. Now you mentioned schedules. You previously testified that a schedule is posted in each of these stores.

A That's true.

Q What do the supervisors have to do with these schedules?

A A schedule is submitted to -- each store manager mails

managers. Is that correct?
A That is true.
Q Now you testified that stock boys or stock men or porters, if they're in high school, are hired between a dollar sixty and a dollar sixty-five, is that correct?
A If they're high school?
Q Yes.
A Between a dollar sixty and a dollar sixty-five, yes, sir.
Q And if they're not high school, they're hired from a dollar seventy to a dollar seventy-five, is that correct?
A Normally that's true.
Q Now if the store manager wants to go beyond the schedules, that is, to hire a high school stock boy in excess of one sixty-five, does he have to obtain the consent of anyone else?
A Yes.
Q Who would that be?
A The store supervisor.
Q That is the line supervisor to whom you have testified about?
A Yes.
Q Just previously?
A Yes.
Q If he wanted to hire a stock man who was not a high school student at above one seventy-five, would he have to get approval?
A Yes.
Q Do you know as a matter of fact whether they do seek approval?
A Yes.

Q Now if he wanted to hire a cashier above two twelve per hour, my recollection is you testified they're hired from one eighty to two twelve, --
A That's true.
Q --would he have to seek approval?
A On an initial hiring?
Q Yes.
A Yes.
Q Now you've also testified that you hire sales personnel regular fulltime sales personnel from one seventy to one seventy-five per hour plus one percent commission, is that correct?
A That's true.
Q Now if he wanted to hire a saleslady for two dollars per hour, would he have to get approval?
A Yes, sir.
Q And this approval would have to come from the supervisor
A The store supervisor.
Q Now you testified that the store managers have the power

Hearing Officer: I have a few questions. Mr. Klinsky, when you spoke of these schedules going to the central office for approval by the line supervisor and that it's necessary to communicate back to the store, does that line supervisor choose the personnel that are to be added or deleted from the schedule?

The Witness: Numerically perhaps, but not individually. In other words, he would not select those individually. But if he would determine that he wanted five more people, he would tell the store manager, you know, to put on five more people.

Hearing Officer: Okay. Now then the manager would make the decision as to who would work or who would not work?

The Witness: You mean as to the individual who was selected?

Hearing Officer: Yes.

The Witness: Yes, ma'am.

Hearing Officer: Now there has been some talk about temporary transfers. Now how are those generally arranged?

The Witness: Well, let's take a most recent example. We just opened two stores and we needed -- we needed let's say seven or eight additional people in each store to handle the grand opening sale. The supervisor knowing the area will call the store managers in the other stores and will make the arrangements to pull these girls into the stores where we need them. Now that would be true with Downtown Detroit Days, special events like mad midnight sales, anniversary or any special kind of events that we might have.

Hearing Officer: So that the line supervisor would communicate with various store managers?

The Witness: Right, and they would select -- they would select the people. Maybe we would need one in ready-to-wear, one extra cashier, an extra porter, or two people in sportswear. Whatever was necessary in order to fill in that complement of personnel in each division within our store.

Hearing Officer: I see. Now you say during the Christmas season and during the summer season and because of vacations that it's necessary to hire ~~temporary people~~?

The Witness: Yes, ma'am.

Hearing Officer: Now is this done at the store level?

The Witness: The hiring of the people is done at the store level, yes, ma'am, --

Hearing Officer: I see.

The Witness: -- but the ads, for instance, to pull them in are done out of our central office. Advertising for help is done out of our central office.

Hearing Officer: Now do all your staff personnel punch timeclocks? Do the store personnel?

The Witness: Yes, ma'am.

Hearing Officer: When a person from one store is temporarily transferred to another store for some type of special event, does that person punch a timeclock at the store where he or she is working?

The Witness: You mean at the new store?

Hearing Officer: Yes.

The Witness: No. No, she's paid -- she's paid on the payroll of the other store. In other words, the store that she comes from is where she is paid from.

Hearing Officer: That store is charged for her time?

The Witness: That's right.

Hearing Officer: I see. Now is there any type of a grievance situation or a grievance procedure informal or formal within the company?

The Witness: Yes. The grievance procedure is basically if there was a problem let's say between management and personnel?

Hearing Officer: Yes.

The Witness: Well, I'm going to have say yes because I can give you an example of where I was called the other day by an employee and I went over to her home and we talked about it. I mean, it's that kind of an informal situation. She was from the store that I one time managed myself. The supervisors are the arm and the ear protecting the store personnel from abusive conduct by anyone in management within a store.

Hearing Officer: I see.

The Witness: So the people in management know that they are answerable to that supervisor and/or to myself or the other executives if something of an unreasonable nature is being imposed. They have, you see, that kind of recourse.

Hearing Officer: Okay. So if employees do have problems at the store level, they are free to contact either the line supervisor or an executive?

The Witness: Anybody in supervision or any executive or any officer. Our telephones are open to them.

Hearing Officer: Now you said that happened once within the last week?

The Witness: No, I'd say this happened once

within the last let's say three months.

Hearing Officer: Oh, within the last three months?

The Witness: Yes, ma'am.

Hearing Officer: Do you have any type of an estimate on how often it's happened within the last year?

The Witness: No, ma'am, I do not.

Hearing Officer: Okay. Now is any type of disciplinary action ever taken which would result in, say, a day off or two days off? Anything along that line?

The Witness: You mean a grievance procedure where we might penalize an employee based on some kind of conduct by giving them time off?

Hearing Officer: Yes.

The Witness: No, ma'am.

Hearing Officer: Nothing like that?

The Witness: No.

Hearing Officer: Is there any type of reprimand system where they're given a written warning for conduct that's unbecoming to them?

The Witness: No, ma'am. They are told personally in conferences. In other words, the store manager would conference the individual employee and the communication would be made and we do have employee folders that would contain the application of the employee and it would contain when perhaps the last raise was given. It would have certain basic information that would be available to the